

Report on the

Alabama Board of Optometry

Bessemer, Alabama



Department of Examiners of Public Accounts

50 North Ripley Street, Room 3201
P.O. Box 302251
Montgomery, Alabama 36130-2251

Ronald L. Jones, Chief Examiner

State of Alabama
Department of
Examiners of Public Accounts

Telephone (334) 242-9200
FAX (334) 242-1775

Ronald L. Jones
Chief Examiner

Montgomery, AL 36130-2251

Montgomery, AL 36104-3833

June 9, 2004

Representative
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Alabama Board of Optometry** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Alabama Board of Optometry**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

CONTENTS

PROFILE.....	1
PURPOSE/AUTHORITY	1
BOARD CHARACTERISTICS.....	1
OPERATIONS	2
FINANCIAL INFORMATION.....	3
SIGNIFICANT ITEMS.....	4
STATUS OF PRIOR FINDINGS.....	4
ORGANIZATION	4
PERSONNEL	4
PERFORMANCE CHARACTERISTICS.....	4
FINANCIAL INFORMATION.....	7
SCHEDULE OF FEES	7
SCHEDULE OF CASH RECEIPTS, DISBURSEMENTS AND BALANCES.....	8
RECEIPTS VS. OPERATING DISBURSEMENTS* (CHART).....	9
QUESTIONNAIRES	10
BOARD MEMBER QUESTIONNAIRE.....	10
LICENSEE QUESTIONNAIRE	12
COMPLAINANT QUESTIONNAIRE	17
APPENDICES.....	19
STATUTORY AUTHORITY	19
BOARD MEMBERS.....	37

PROFILE

Purpose/Authority

The Board of Optometry is responsible for licensing and regulating the practice and profession of optometry. The board conducts examinations of applicants, grants or denies licenses, formulates rules and regulations relating to the profession, establishes standards of continuing education, and conducts investigations and hearings based on complaints or petitions against optometrists licensed by the board. The *Code of Alabama 1975*, Sections 34-22-1 through 34-22-88 provides the current statutory authority for the board.

Board Characteristics

Members	7
Terms	No more than 2 consecutive 5-year terms.
Selection	Appointed by the Governor from a list of five nominees selected by currently licensed optometrists.
Qualifications	<ul style="list-style-type: none">• Alabama resident• Actively licensed• Actively engaged in the practice of optometry for at least five years prior to being appointed.
Minority Race Representation	One minority member No statutory requirement
Geographical Representation	One member from each congressional district.
Consumer Representation	No statutory requirement
Other Representation	The <i>Code of Alabama 1975</i> , Section 32-22-40 (a) requires that the membership of the board shall be inclusive and reflect the racial, gender, geographic, urban, rural, and economic diversity of the state.
Compensation	\$125 per day Travel and per diem at state employee rate

<u>Operations</u>	
Administrator	Executive Director – Dr. Fred Wallace, OD Contract employee - appointed by the Board Annual Salary - \$39,400
Location	1431 Second Avenue, North Bessemer, AL 35020
Examinations	Administered annually at the University of Alabama at the Birmingham School of Optometry in the month of July. The examination is prepared, administered and graded by board members.
Licensees	631
Renewals	Annually, on or before October 1.
Reciprocity	Any person who has successfully passed a standard state examination in optometry or has passed all parts of the examination given by the National Board of Examiners in Optometry and who has a current license to practice optometry in any state in the United States for at least one year, may, at the discretion of the board, pay the appropriate fee, take and pass the standard examination may be registered to practice optometry in the state.
Continuing Education	Not more than 25 clock hours annually. Licensees approved by the board to use pharmaceutical agents must take no less than 20 or more than 25 hours.
Employees	1 contract employee
Legal Counsel	Private Attorney – Robert Segall Copeland, Franco, Screws & Gill, PA 444 South Perry Street Montgomery, AL 36104
Subpoena Power	Yes-Both records and witnesses

Internet Presence	www.al-optometry.org . The board's website contains the following: <ul style="list-style-type: none"> • Statutory Authority • Administrative Code • Board Members • Application Forms • Procedures for filing complaints • Continuing Education Requirements • A schedule of fees • List of Licensees
Attended Board Member Training	Executive Director
<u>Financial Information</u>	
Source of Funds	Licensing and registration fees
State Treasury	No – the board operates from a checking account with Amsouth Bank-Bessemer, Alabama.
Unused Funds	The board retains the unused year end balance in its checking account; except that any amount over \$200,000 is transferred to a special fund in the State Treasury for use by the School of Optometry at the University of Alabama at Birmingham.

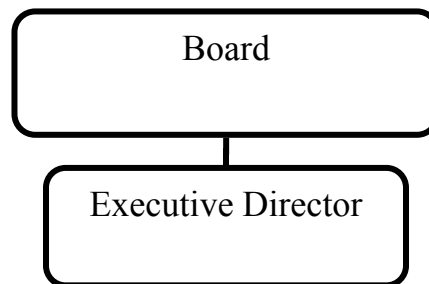
SIGNIFICANT ITEMS

1. **Sale of contact lens without a professional examination.** Responses to questionnaires sent to a sample of licensees and to board members revealed concern for the health of Alabamians purchasing contact lenses over the Internet and at various beauty supply stores. Citizens can purchase contact lenses without having an eye examination by an optical professional.

STATUS OF PRIOR FINDINGS

There are no unresolved prior audit findings.

ORGANIZATION



PERSONNEL

The board contracts with Dr. Fred Wallace to serve as its executive director and to provide all administrative and clerical assistance.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 631

Number of Persons per Licensee in Alabama and Surrounding States

State	Population (estimate)	Number of Licensees	Persons per Licensee
<i>Alabama</i>	<i>4,500,752</i>	<i>631</i>	<i>7,133</i>
Florida	17,019,068	2,528	6,732
Georgia	8,684,715	1,162	7,474
Mississippi	2,881,281	286	10,074
Tennessee	5,841,748	1,083	5,394

Operating Disbursements per Licensee - \$203.00

Notification to Licensees of Board Decisions to Amend Administrative Rules

In addition to meeting the requirements of the Administrative Procedure Act, board rule 630-X-1-.03 requires the secretary-treasurer to notify each licensed optometrist in Alabama within 14 days after the meeting by first class mail of any proposed and provisionally adopted rule or regulation. The notice must contain a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

Jurisdictional Overlap with Other Agencies

The Board of Medical Examiners is responsible for regulating ophthalmologists, medical doctors specializing in visual care, who can also perform the professional duties specified by law for optometrists.

Complaint Resolution

Board Rules 630-X-3-.01 through 630-X-3-.11 provides the procedures for documentation, receipt, and investigation of complaints against licensed optometrists and any other persons that may be in violation of the board's statutes. Any person, including a licensed optometrist or board member may initiate a complaint. According to the complaint files reviewed, complaints were resolved within two months to three years. Some complaints were resolved by contact with the board's investigator and sending the violator a letter. Other complaints required more investigation and resulted in administrative hearings. The board has one unresolved complaint that was filed in 1995. The complaint is pending due to an investigation by the Federal Bureau of Investigation.

Complaint Process

Initial Documentation

The board requires complainants to submit complaints to the secretary-treasurer or other specified agent of the board. The complaints must be in writing and under oath. The complaints must set out in detail the charge(s) against the accused person.

Anonymous Complaints

The board does not accept anonymous complaints.

Complaint Notification

Upon receipt of the complaint, the secretary-treasurer or the board's legal counsel verify the complaint by telephoning the complainant to get the details of the complaint. If a complaint is not made according to the board's regulations, the complainant is notified in writing by the board of the proper procedures. A copy of the written complaint is mailed to the licensee and the licensee has 15 days to respond to the complaint.

Investigations

The board and legal counsel conduct a preliminary investigation to determine if formal charges should be presented and whether a hearing should be held.

Disposition of Complaint

The board notifies the complainant and the accused in writing if the complaint was either dismissed or if the complaint warrants a hearing.

Schedule of Complaints

Fiscal Year	Complaints Filed	Resolved	Unresolved
2000-01	2	2	0
2001-02	3	3	0
2002-03	2	2	0

FINANCIAL INFORMATION

Schedule of Fees

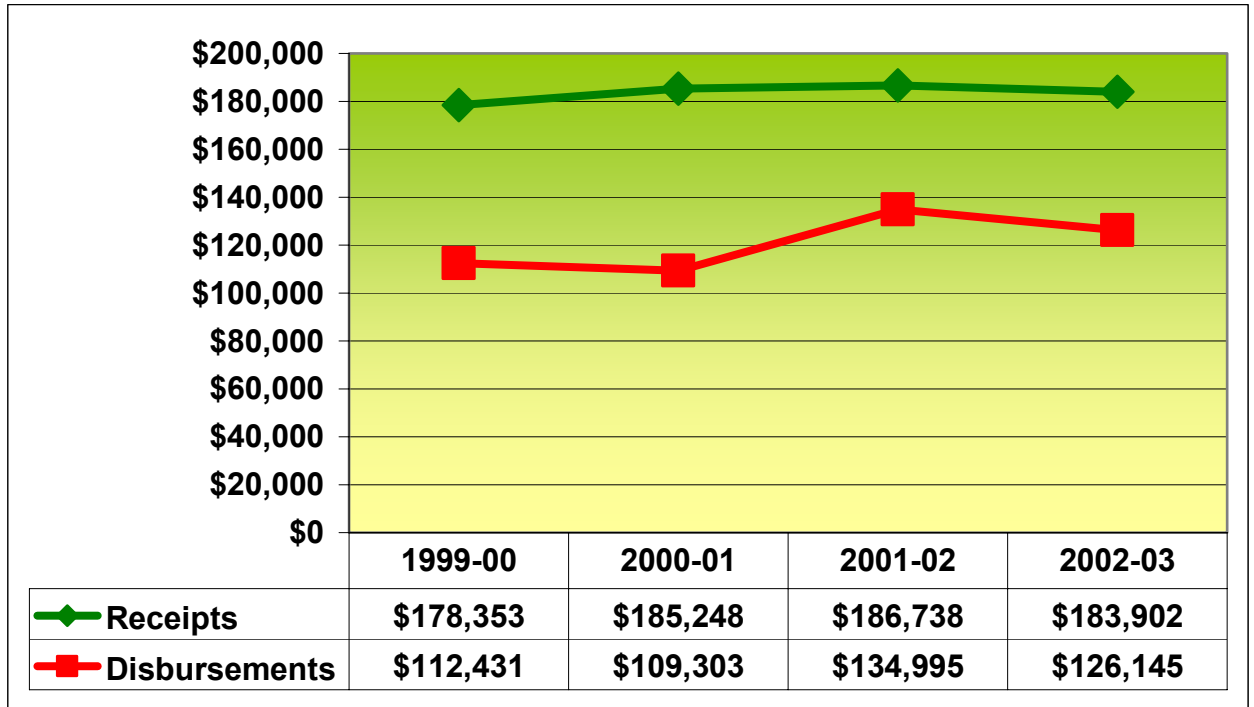
<i>Fee Type</i>	<i>Code of Alabama 1975</i>	<i>Amount</i>
Standard examination for licensure	34-22-5	\$ 500.00
Therapeutic agents certification	34-22-22(d)	\$ 100.00
License renewal without therapeutic agent	34-22-22(d)	\$ 160.00
License renewal with therapeutic agent	34-22-22(d)	\$ 260.00
Late renewal fee	34-22-22(e)	\$ 200.00
Limited teaching license	34-22-5	\$ 100.00
List of licensees	34-22-43	\$ 100.00
Licensee address labels	34-22-43	\$ 125.00
List of new licensees	34-22-43	\$ 25.00
Copy of Law/Regulations	Cost Recovery	\$ 25.00
Verification of license	Cost Recovery	\$ 10-25
Duplicate license	Cost Recovery	\$ 50.00

Schedule of Cash Receipts, Disbursements and Balances

For the Period October 1, 1999 through September 30, 2003

	<u>2002-03</u>	<u>2001-02</u>	<u>2000-01</u>	<u>1999-00</u>
<u>Receipts</u>				
License Fees	\$160,604.00	\$164,184.89	\$151,481.00	\$144,456.00
Examination Fees	18,000.00	17,500.00	16,000.00	18,000.00
Interest Income	5,251.23	5,053.33	3,537.17	4,001.77
Miscellaneous Income	47.15		14,230.00	11,894.87
Total Receipts	<u>183,902.38</u>	<u>186,738.22</u>	<u>185,248.17</u>	<u>178,352.64</u>
<u>Disbursements</u>				
Personnel Costs	56,611.21	54,462.53	55,393.50	52,831.25
Employee Benefits	4,330.58	4,108.91	4,237.43	4,041.38
Travel In-State	7,999.68	9,549.49	12,163.44	10,018.20
Travel Out-of-State	27,664.19	19,765.15	10,713.06	8,622.49
Repairs and Maintenance	1,799.00	1,974.80	1,963.00	1,204.00
Rentals and Leases	177.00	672.00	672.00	654.00
Utilities and Communications	3,119.11	4,337.64	4,856.67	5,815.81
Professional Services	13,959.62	23,478.31	17,721.30	16,195.80
Supplies, Materials and Operating Costs	3,695.71	14,441.60	1,486.50	1,933.62
Equipment Purchases	5,974.28	1,136.00	95.63	11,114.78
Miscellaneous Expense	815.00	1,069.02		
Transfer to UAB School of Optometry (1)			65,921.31	88,210.21
Total Disbursements	<u>126,145.38</u>	<u>134,995.45</u>	<u>175,223.84</u>	<u>200,641.54</u>
Excess (Deficiency) of Receipts over Disbursements	57,757.00	51,742.77	10,024.33	(22,288.90)
Cash Balance at Beginning of Year	<u>187,688.41</u>	<u>135,945.64</u>	<u>125,921.31</u>	<u>148,210.21</u>
Cash Balance at End of Year	<u>\$245,445.41</u>	<u>\$187,688.41</u>	<u>\$135,945.64</u>	<u>\$125,921.31</u>
(1) Year end balances exceeding \$200,000 must be transferred to the University of Alabama at Birmingham School of Optometry.				

Receipts vs. Operating Disbursements* (chart)



**Operating disbursements does not include mandatory transfers to UAB School of Optometry of year end balances exceeding \$200,000.*

QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were mailed to all seven board members. Five responded.

Question #1

What is the most significant issue currently facing the Board of Optometry and how is the board addressing these issues?

“Protecting the people of Alabama from persons practicing optometry without a license to do so. The Board is actively investigating and interrupting the sale of illegal contact lens by individuals and beauty supply houses. Another issue is advising Alabama optometrists regarding the appropriate interpretation of the fairness to Contact Lens Consumers Act placed into law in February 2004 by the federal government. The board is currently studying the Act to determine how the state optometry law will be integrated with the Federal Act.”

“The illegal sell of contact lens. Incorporating investigators and following up with local district attorneys.”

“Regulations against illegal contact lens dispensing. If an official complaint is filed, we attempt to resolve it without a formal hearing. Otherwise, a formal hearing may be set to uphold the optometry law.”

“Illegal dispensing of contact lens without a prescription. The board is actively pursuing any leads and trying to protect the public by halting the illegal dispensing of contact lens.”

“Fitting and selling contact lens without a prescription. The board is investigating complaints and trying to get local district attorneys to prosecute.”

Question #2

What changes to the Board of Optometry laws are needed?

“The licensure by endorsement and strengthening the board’s ability to deal with non-licensees by increasing fines. Passing legislation to allow the Board of Optometry to determine the scope of practice for optometrists practicing in the state.”

“Increasing the fines for violators by non-licensees, and increasing the salary for board members to equal to the Board of Pharmacy and the Boards of Medical and Dental Examiners.”

“Currently the board gives exam for licensure. It would be in line with other states to allow the National Board of Examiners to be the testing agent for the state.”

“Possible streamlining the state board test.”

“Allow the board the power to prosecute non optometrists breaking optometry law; allow interstate reciprocity; allow new graduates to have written national board accepted exams instead of having to sit for a state written test for licensure.”

Question #3

Is the Board of Optometry adequately funded?

Yes 5 No 0

Question #4

Is the Board of Optometry adequately staffed?

Yes 5 No 0

Question #5

What is the purpose of your fiscal year end balance of unobligated funds?

“Any unobligated funds at the end of the fiscal year (Oct. 1) go to support the UAB School of Optometry as stated in the law. Monies can be used by the school for construction, operation, maintenance, scholarships, loans, faculty salaries and endowments, continuing education and research grants. Funding from board unobligated funds to the school helps fill in funding shortfalls and provides additional funds to help maintain superior educational experiences for students.”

“Funds above a certain level are designated to go to the UAB School of Optometry. Reserve funds below that level were determined at the last sunset to be for legal and investigative issues.”

“Any funds that remain at year’s end are transferred to the UAB School of Optometry to be disposed of according to state law.”

“Excess funds go to the UAB School of Optometry.”

“By law the funds are given to UAB School of Optometry.”

Licensee Questionnaire

Questionnaires were mailed to one hundred licensees. Seventy-six responded.

Question #1

Do you think regulation of your profession by the Board of Optometry is necessary to protect public welfare?

Yes **69** No **3** Unknown **2** No Opinion **2**

Question #2

Do you think any of the Board of Optometry's laws, rules, and policies are an unnecessary restriction on the practice of your profession?

Yes **7** No **65** Unknown **1** No Opinion **3**

"I feel that the scope of my practice should allow more procedures for professionals who meet the criteria of education, i.e. injectables."

Question #3

Do you think any of the Board of Optometry's requirements are irrelevant to the competent practice of your profession?

Yes **10** No **59** Unknown **3** No Opinion **4**

"I think CEs should be transcript quality, not just seat time."

"The state licensure exam is two days of time, multiple hundreds of dollars, and does not test competency. Many states accept the National Board of Examiners in Optometry Parts I, II, and III as sufficient testing for licensure. A short test on Alabama law is all that is necessary. Get rid of state board exams."

Question #4

Are you adequately informed by the Board of Optometry of changes to and interpretations of board positions, policies, rules and laws?

Yes **63** No **6** Unknown **7**

"Our present board goes much further at informing the professionals than years before."

Question #5

Has the Board of Optometry performed your licensing and renewal in a timely manner?

Yes 74 No 2

Question #6

Do you consider mandatory continuing education necessary for competent practice?

Yes 68 No 8

Question #7

Has the Board of Optometry approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

Yes 73 No 3

“I would like more distance based courses to count toward licensure. At present only 3 out of 20 count. I think 10 out of 20 would be better.”

Question #8

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Optometry doing to address the issue(s)?

“Expansion of laws governing optometry in Alabama.”

“Illegal contact lenses sales and performing undercover investigations at locations reported or suspected.”

“There are too many optometrists coming into the practice.”

“Keeping up with new developments in optometry.”

“Unlicensed people providing services. The Board has apparently made a concerted effort to bring legal action against those people engaged in illegal practices of optometry.”

“Meeting vision and eye care needs of the uninsured, especially children.”

“Politics restricting optometrists’ ability to perform all necessary procedures we need to provide total eye care. The Board of Optometry has to constantly monitor the political arena.”

“The illegal sale of cosmetic contact lenses. The board has in place a protocol to police this infraction.”

“Need to increase scope of practice with laser application. Any body that can focus a biomicroscope can do this procedure. Increase minor surgical procedures, i.e. chalazion; which we once had. I don’t know what is being done by the board.”

“The need of something similar to a union to control the number of hours/days that ‘retail environments’ force optometrists into or they will not get to keep their jobs. This hurts both the private practitioner and the optometrist in the retail environment. They both need to come together on this issue.”

“I believe there should be an ‘any willing provider’ clause for any health panel so a select few cannot dominate panels. The board has not done anything on this issue that I am aware of. Non-invasive laser procedures such as capsulotomy, lasik, etc. should be allowed. Once again, the board to my knowledge has not done anything.”

“The House Bill proposed to limit the practice of optometrists in VA hospitals, and sending out information on who to contact and encourage us all to contact them.”

The illegal dispensing of ophthalmic device (i.e. contact lens). The board is constantly on guard for those who dispense without a license.”

“Mail order contact lenses. People who I have never seen get contacts off the internet using my name without a prescription. I don’t think the board has done anything about it.”

“The most significant issue currently facing my profession concerns the limits placed on the scope of practice, such as limits restricting optometrists from being able to perform certain procedures that an optometrist has the education, training, and skill to perform. The Board of Optometry is working to expand the scope of practice.”

“The lack of ‘as taught’ legislation. Every time there are advances in technology, optometry should not be forced to ask to the legislator to expand our scope of practice laws. The board is not addressing this issue.”

“The verification of contact lens prescription. Many folks don’t realize the consequences of ‘abusing’ contact lens wear and the need for education. The board has put in place fines for those selling contacts illegally and also put in place rules for contact lens prescription verification.”

“Two career families need access to licensing without undue waits and restrictions.”

“Mail order contact lens companies filling invalid/expired prescriptions and paying no sales tax for internet orders.”

“Limitation of practice of the full scope of optometry; lack of emergency room privileges; limitation of coverage by HMOs, PPOs and other insurance companies to provide the full scope of care to patients by optometrists; exclusion of optometry by some insurance companies.”

“I am very concerned that current legislation (HR #3473) Ophthalmology is trying to limit my scope of practice, which is already too restrictive for the training I have.”

“National issue affecting Alabama as well: Legislation introduced to limit scope of practice of VA optometrists. Alabama Optometric Association and the board have gotten the word out and encouraged us to write our congressmen to halt the bill.”

“The illegal sale of contact lens without a valid prescription by mail order and internet companies.”

“The continuing surge of ophthalmology to attempt and limit the scope of practice in optometry. The board sends letters to Congress to appeal.”

“The board is doing nothing about contact lens prescriptions being filled in Alabama or by mail order that are invalid, expired or substituted.”

“Skilled, competent and astute clinicians. Board requires CE yearly with a portion required from therapeutic CE.”

“Attempted control of the practice of optometry by corporations, i.e. subtle pressures by ‘management’ of chains on the doctor. I don’t know whether anything could be done.”

“Contact lens sales by beauty shops and over the internet.”

“National licensure and uniform practice laws. State licensure varies widely between states. Why not establish a uniform licensure protocol that every state recognizes, and have one license to practice in any/every state. Dismantle 50 different state board requirements. I have no idea what the board is doing. An entrenched board is not likely to yield its power.”

“Keeping individuals not properly licensed from performing optometry and harming the public.”

“Attempts to narrow our scope of practice by ophthalmology and their lobbyists. We fund education to Congress and through the Alabama Optometry Association PAC to try and make sure our rights to practice full scope optometry are protected.”

“Internet contact lens sales without a valid prescription is a huge problem. This may be more of an Attorney General problem though.”

“People practicing optometry without a license. People (untrained) sell contact lenses at beauty supply stores, flea markets, etc.”

“Abusive practice of filling contact lens prescriptions by unscrupulous sellers. This is actually a public health safety issue.”

Question #9

Do you think the Board of Optometry and its staff is satisfactorily performing their duties?

Yes 70 No 2 Unknown 2 No Opinion 2

“This is a ‘thankless’ job. Each member I know puts a lot of time and pride in serving the profession.”

Question #10

Has any member of the Board of Optometry or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

Yes 1 No 75

Complainant Questionnaire

Questionnaires were mailed to twenty-four complainants. Four responded.

Question #1

How was your complaint filed with the Board of Optometry?

Mail 2 Phone 1 Fax Other 1

Question #2

Was receipt of your complaint promptly acknowledged?

Yes 4 No

If yes, approximately how long after you filed your complaint were you contacted by the Board of Optometry?

Immediately 1 Within 10 days 1 Within 20 days 1

Within 30 days More than 30 days 1

Question #3

Was the employee who responded to your complaint knowledgeable and courteous?

Yes 4 No

Question #4

Did the Board of Optometry communicate the results of investigating your complaint to you?

Yes 3 No 1

Question #5

Do you think the Board of Optometry did everything it could to resolve your complaint?

Yes 2 No 1 Unknown 1

Question #6

Were you satisfied with your dealings with the Board of Optometry?

Yes **3** No **1**

APPENDICES

Statutory Authority

CHAPTER 22.

OPTOMETRISTS.

ARTICLE 1.

GENERAL PROVISIONS.

§ 34-22-1. Definitions.

For the purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

- (1) Board. The Alabama Board of Optometry.
- (2) Human eye and its adjacent structures. The eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lachrymal system.
- (3) Pharmaceutical agents. Any diagnostic and therapeutic drug or combination of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye and its adjacent structures.
- (4) Practice of optometry. The practice of optometry is a learned profession involving the examination, measurement by objective and subjective means, diagnosis, treatment, and prevention of any departure from the normal of the human eyes, their adjacent structures, and visual system. The practice of optometry includes but is not limited to: The adapting and fitting of all types of lenses or devices, including, contact lenses; the determination of refractive error and shape of the eye and visual, muscular, or anatomical anomalies of the eye through the use of any means including the use of any self testing devices and the use of any computerized or automatic refracting device; the determination and prescribing of spectacle or contact lens parameters; the administering and prescription of pharmaceutical agents rational to the diagnosis and treatment of disease of the human eye and its adjacent structures; the removal of superficial foreign bodies from the human eye and its adjacent structures; the providing of developmental and perceptual therapy for the vision system; the utilization of any method or means to diagnose and treat diseases of the human eye and its adjacent structures as determined and approved by the board, subject to the limitations of this chapter; the performance of primary eye care procedures or ordering of laboratory tests rational to the diagnosis and treatment of conditions or disease of the human eye and its adjacent structures as determined and approved by the board, subject to the limitations of this

chapter. The practice of optometry shall include the prescribing and administering of narcotic analgesics pursuant to the Alabama Uniform Controlled Substances Act, except for narcotic analgesics classified under Schedule I and II, and any Schedule III pharmaceutical agents that contain Dihydrocodeinone, ("Hydrocodone"). The prescribing or administering of any other Schedule III pharmaceutical agent shall be limited to a prescription, the duration of which does not exceed 96 hours. Notwithstanding any provision of this chapter to the contrary, the practice of optometry shall include the prescribing and administering of pharmaceutical agents which are commonly known as steroids. Optometrists are prohibited from performing injections into the eyeball, cataract surgery, muscle surgery, retinal surgery, radial keratotomy, laser surgery, cryosurgery, or any other invasive surgery. The Alabama Board of Optometry shall be a certifying board as defined in Section 20-2-2, except as limited by this chapter. The practice of optometry shall include the authority to administer benedryl, epinephrine, or other medication to counteract anaphylaxis or anaphylactic reaction. The use and prescribing of pharmaceutical agents for the treatment of the human eye and its adjacent structures shall be limited to those optometrists approved by the board.

(Acts 1975, No. 1148, p. 2257, § 2; Acts 1975, 4th Ex. Sess., No. 124, p. 2818, § 1; Acts 1995, No. 95-218, p. 370, § 1.)

§ 34-22-2. Objects and purposes of chapter.

The practice of optometry is hereby declared to affect the public health, safety and welfare, and optometry is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of optometry, as defined in this chapter, be limited to qualified persons admitted to practice optometry in the State of Alabama pursuant to the provisions of this chapter. This chapter shall be liberally construed to carry out these objects and purposes.

(Acts 1975, No. 1148, p. 2257, § 1.)

§ 34-22-3. Intent of chapter.

It is intended that this chapter shall furnish a complete and exclusive system, of and in itself, for obtaining the right to practice optometry in the State of Alabama and for the regulation of the practice of optometry therein; provided, that it is the intent of the Legislature that this chapter shall not have the effect of repealing any laws not dealing with the profession of optometry and specifically shall not have the effect of repealing Section 34-24-292.

(Acts 1975, No. 1148, p. 2257, § 18.)

§ 34-22-4. Limitation on application of chapter.

(a) It is not the intent of this chapter to prevent any school teacher, welfare worker, state, county, municipality, or other public board, body, agency, institution, or official from determining in the course of their official duties the probable need of visual services; provided, that the aforementioned person or agency does not attempt to examine, diagnose, prescribe, or recommend any particular practitioner and complies with the provisions of Section 38-1-2.

(b) A license to practice optometry shall not be required for the sale, preparation, or dispensing of eyeglasses or spectacles in a retail optical dispensary or from a store, shop, or other permanently established place of business with an optical department on prescription of a duly licensed physician skilled in diseases of the eyes or a duly licensed optometrist authorized to

practice under the laws of this state. Contact lenses may be sold or dispensed in a retail optical dispensary or other permanently established place of business with an optical department only when authorized by an optometrist or ophthalmologist, the prescription therefor contains all necessary data, and the prescription has not expired. This section shall not be construed as authorizing any optician or other person selling eyeglasses or contact lenses on prescription as authorized above to use any instrumentation or determine any data by performing any type of examination or corneal evaluation necessary for the fitting of contact lenses or to use any drugs in relation thereto.

(c) Nothing in this chapter shall apply in any way to any licensed physician, nor to any physician assistant or ophthalmic assistant program conducted under any accredited state university program, nor to any physician's assistant as defined in Section 34-24-292. Nothing in this chapter shall be construed as preventing an ophthalmologist from using assistants normally used in his or her practice under his or her direct personal supervision in the office in which the ophthalmologist normally actually practices his or her profession and nowhere else.

(Acts 1975, No. 1148, p. 2257, § 17; Acts 1975, 4th Ex. Sess., No. 124, p. 2818, § 1; Acts 1993, No. 93-153, p. 222, § 3; Acts 1995, No. 95-218, p. 370, § 1.)

§ 34-22-5. Limited teaching licenses.

The board may, under rules and regulations to be promulgated by the board, issue limited licenses, in the case of teachers, to persons who hold an optometric degree where such persons are not licensed and registered to practice optometry in this state. The dean of any school of optometry within the State of Alabama which has been approved by the board shall be required to annually certify to the board the names and addresses of the members of the faculty of the school who are not licensed and registered to practice optometry in the state and shall be required to promptly notify the board of any change in personnel on the faculty. The board may issue limited licenses to applicants upon the certification of the dean of any school of optometry setting forth that the applicant is a bona fide member of the faculty of the school. The limited license shall be valid so long as the holder thereof remains a member of the faculty of the school and abides by the rules and regulations under which the same is issued. The holder of a limited license shall be subject to all provisions of this chapter regulating the practice of optometry in this state and shall be entitled to perform all services which a person licensed to practice optometry in this state would be entitled to perform, but only as a part of the program of the school and as an adjunct to his or her teaching functions in the school. A fee of one hundred dollars (\$100) shall be paid by the applicant to the board for the issuance of a limited license. Limited license holders who are not members of a residency program at a school of optometry shall be subject to the same annual license renewal fees and other requirements as required of holders of regular licenses.

(Acts 1975, No. 1148, p. 2257, § 12; Acts 1997, 97-158, p. 211, § 3.)

§ 34-22-6. Violations; penalties; assistance in prosecutions; costs and attorney fees; venue.

(a) It shall be unlawful for any person to perform any of the following:

(1) Practice optometry in this state without having a valid, unrevoked, and unexpired license certificate and annual renewal registration certificate as an optometrist.

(2) Use or attempt to use as his or her own a diploma of an optometric school or college or a license of another person, or a forged diploma or license, or any forged or false identification.

(3) Sell or offer to sell a diploma conferring an optometric degree or a license granted pursuant to this chapter or prior optometric practice laws, or to procure each diploma or license with intent that it shall be used as evidence of the right to practice optometry by a person other than the one upon whom it was conferred or to whom the license was granted, or with fraudulent intent to alter the diploma or license or to use or attempt to use it when it is so altered.

(4) Willfully make any false statements in an application for examination for a certificate to practice optometry or for annual renewal registration.

(5) Use or attempt to use pharmaceutical agents for the treatment of the human eye and its adjacent structures without having approval of the board at the time the treatment is rendered.

(b)(1) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000) and, in addition, may be imprisoned in the county jail for a period not to exceed 12 months and shall be subject to having his or her license revoked or suspended as provided in this chapter.

(2) The board and its members and officers shall assist prosecuting officers in the enforcement of this chapter, and it shall be the duty of the board, its members, and officers, to furnish the proper prosecuting officers with the evidence as they may ascertain necessary to assist them in the prosecution of any violation of this chapter. The board, may for these purposes, make such reasonable expenditures from the funds of the board as it may deem necessary to ascertain and furnish the evidence.

(3) In addition to criminal penalties, any person violating this section may be fined up to one thousand dollars (\$1000) by the board for each violation. The board may sue, if necessary, to collect the fine.

(4) The board is entitled to costs and reasonable attorney fees in any civil action in which it prevails.

(5) Venue for any action brought by the board pursuant to this chapter is the Circuit Court of Montgomery County.

(Acts 1975, No. 1148, p. 2257, § 11; Acts 1995, No. 95-218, p. 370, § 1.)

§ 34-22-8. Disciplinary action; charges; hearing; judicial procedure; appeals; sanctions; immunity of board, etc., from suit.

(a) Any person, including a licensed optometrist may initiate a charge of violation of the provisions of this chapter or a charge of misconduct by a licensed optometrist by filing with the secretary of the board a written statement under oath of the charge or charges against the accused. If a member of the board files a charge, the member shall not participate in the hearing or disposition of the charge, except to the extent of giving testimony in connection with the charge. The member filing the charge shall not be present during the hearing or deliberation of the charge except to give testimony. A discreet preliminary investigation into the charge or charges shall be made by the board, after which, if the board is reasonably satisfied that the charge or charges are not frivolous, the board shall hear the charge or charges under rules of

procedure to be established by the board. A quorum of the board shall be present at all times during the hearing and deliberation and action thereon. A time and place, either within the City of Montgomery, Alabama or the county in which the accused resides for the hearing of the charge or charges shall be fixed by the board as soon as convenient. A copy of the charge or charges, together with a written notice of the time and place of the hearing, and a copy of the rules of procedure adopted by the board for the hearing shall be served on the accused at least 20 days before the date fixed for the hearing, by leaving a copy thereof at his or her last and usual place of residence, by personal service upon the accused, or by forwarding a copy to the accused via United States registered mail, with a return receipt requested, addressed to him or her at his or her last known mailing address, if a resident of the State of Alabama. If the accused is not a resident of Alabama or has departed from the State of Alabama, then notice of the time and place of the hearing shall be published in a newspaper of general circulation in the county where the accused is last known to have resided, three weeks prior to the hearing, setting out the time and place of the hearing. At least five days before the time of the hearing, the accused shall file with the secretary of the board an answer to the written charges together with a list of witnesses which the accused desires to be subpoenaed for the hearing. At the hearing, witnesses may be examined respecting the charge or charges. The board or the accused, or both, may require the attendance of witnesses, the production of books, records, and papers pertinent to the issues and, either or both may require the secretary of the board to issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records, papers, or documents, which shall be directed to the sheriff of the county where the witness resides or is to be found. The subpoena shall be served and returned in the same manner as subpoenas in civil cases in the circuit court are served and returned. If any person is subpoenaed to appear before the board and fails to obey the subpoena without reasonable cause, or if any witness upon any hearing before the board refuses to be sworn, or to be examined, or to produce a book, record, paper, or document, as ordered by the board, this fact shall be certified by the board to the circuit court or the judge thereof in the county where the witness resides, and the witness shall be ordered and directed by the court to appear before the board and testify or produce such books, papers, records, or documents as are ordered by the board. At the hearing, the accused may cross-examine the witnesses against him or her, produce witnesses in his or her defense, appear personally or by counsel, or both, and have the testimony taken down by a stenographer, but the expense of counsel and stenographer shall be borne by the accused. A majority of the quorum of members of the board conducting the hearings shall render a decision on the merits of the charge or charges and, if warranted by the evidence, impose appropriate sanctions.

(b) In all cases of suspension or revocation of licenses or of other disciplinary sanctions imposed by the board, the accused may appeal only to the Circuit Court of Montgomery County, Alabama, notwithstanding any other provision of law to the contrary. Except as otherwise provided herein, judicial review of the orders and decisions of the board shall be governed by the provisions of Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act.

(c) Members of the board, and the members of any committee of optometrists impaneled by the board, and any other optometrist and individual making any report or rendering any opinion, or service, or supplying any evidence or information or offering any testimony to the board in connection with a disciplinary investigation or proceeding as authorized in this chapter shall be immune from suit for any conduct with respect to the investigations, actions, hearings, and proceedings.

(Acts 1975, No. 1148, p. 2257, § 10; Acts 1989, No. 89-233, p. 288, § 3; Acts 1995, No. 95-218, p. 370, § 1.)

ARTICLE 2.

LICENSES

§ 34-22-20. Examinations; qualifications of applicants; execution, issuance and possession of licenses; temporary licenses; pharmaceutical agents.

(a) Every person desiring to practice optometry in this state shall be 19 years of age, or over, a citizen of the United States, and of good moral character. The person shall have a preliminary education of at least four years of high school or the equivalent and be a graduate thereof, have a minimum of three years of preoptometry, or the equivalent, at an accredited college or university, have completed a course of study in an accredited school or college of optometry which is approved by the board and that requires at least four years of professional study, and have passed all examinations prescribed by the board, including the standard examination after completion of the educational requirements. The standard examination shall consist of tests in practical, theoretical, and physiological optics, in theoretical and practical optometry, orthoptics, ocular anatomy, physiology, pharmacology, pathology, diagnosis and treatment of disease of the human eye and its adjacent structures, general anatomy, hygiene, and any other knowledge the board deems essential to the practice of optometry. The standard examination shall be consistent with the established teaching and recognized textbooks of accredited schools or colleges of optometry.

(b) The application to take the standard examination shall be upon the form prescribed and furnished by the board and verified by the oath of the applicant, accompanied by a fee to be determined by the board. The fee shall not be more than five hundred dollars (\$500).

(c) The standard examination shall be held at least once in each year if there are any candidates for examination who have applied to the board at least 30 days before the date prescribed for the holding of the examination.

(d) When the application and accompanying proof are found satisfactory, the board shall notify the applicants to appear for examination at a time and place fixed by the board. Upon passing the standard examination, the applicant shall submit to the board proof that he or she has passed all additional examinations required by the board. The applicant shall also submit any protocols for the use of pharmaceutical agents that the board may require. When these requirements have been met by the applicant and approved by the board, the board shall grant to qualified applicants a license and a license certificate, both of which shall bear a serial number, the full name of the licensee, the date of issuance, the seal of the board, and the signature of the president and secretary of the board. A seal of approval by the board of the use of pharmaceutical agents for the treatment of the human eye and any of its adjacent structures shall be affixed to the license certificate. The board may grant a temporary license under the circumstances and conditions, and in the form, as may be prescribed by rules and regulations of the board.

(e) Every license issued, whether permanent or temporary, and every annual registration certificate shall be in the possession of the optometrist to whom it was issued and posted in the

office where he or she practices.

(f) Those persons who hold valid licenses to practice optometry in the State of Alabama on October 1, 1994, shall continue to be so licensed after October 1, 1994, subject to this chapter, regardless of whether they are otherwise qualified to secure a license under this chapter. Optometrists licensed under this section may apply to the board, in a manner prescribed by the board for approval to use pharmaceutical agents for the treatment of disease of the human eye and its adjacent structures. The board shall prescribe requirements to be met by applicants prior to approval by the board, including but not limited to, the requirement that the applicant has successfully completed at least 72 clock hours in the diagnosis and management of disease of the human eye and its adjacent structures within a three-year period preceding application for a license.

(Acts 1975, No. 1148, p. 2257, § 6; Acts 1989, No. 89-233, p. 288, § 3; Acts 1993, No. 93-153, p. 222, § 3; Acts 1995, No. 95-218, p. 370, § 1.)

§ 34-22-21. Reciprocity; pharmaceutical agents.

Any person who has successfully passed a standard examination in optometry in any state of the United States or all parts of the examination given by the National Board of Examiners in Optometry and is the holder of a certificate to that effect, issued by the board of that state, or by the national board, and who has a current license to practice optometry in any state in the United States, and has conducted an ethical professional practice of optometry for at least one year, may, at the discretion of the board, and upon the payment of the amount of the regular examination fee, take the standard examination, and upon passing the examination be registered as qualified to practice optometry in this state. Optometrists licensed under this chapter may apply to the board for approval to use pharmaceutical agents for the treatment of disease of the human eye and its adjacent structures. The board shall prescribe rules and regulations setting forth the manner in which the application shall be made and approval shall be given. Licensed pharmacists of this state shall fill those prescriptions as are ordered by licensed optometrists approved by the board to use pharmaceutical agents.

§ 34-22-22. Continuing education requirements; failure to comply; reinstatement and renewal; failure to secure certificate; waiver of registration and fees.

(a) All registered optometrists licensed in the State of Alabama are required to take annual courses of study in subjects relating to the practice of optometry. The length of study shall be prescribed by the board but shall not exceed 25 clock hours in any calendar year. Licensees approved by the board to use pharmaceutical agents shall be required to take not less than 20 nor more than 25 hours of continuing education, half of which shall be in subjects relating to the diagnosis, treatment, and management of disease of the human eye and its adjacent structures. Attendance shall be at a course or courses approved by the board. Attendance at any course or courses of study shall be certified to the board upon a form provided by the board and shall be submitted by each registered optometrist at the time he or she makes application to the board for the renewal of license and pays the renewal fee.

(b) Continuing education requirements shall be completed between October 1 and September 30 of each fiscal year prior to the time for license renewal for the next fiscal year. Upon the failure of any licensee to certify compliance with continuing education requirements for the fiscal year on or before the first day of November, the board shall notify the licensee by

registered mail addressed to his or her last address of record that certification has not been received and unless certification is received on or before the first day of January, his or her license and license certificate shall be automatically suspended. If the certification demonstrating compliance with continuing education requirements is not received by the board on or before January 1, the license and license certificate of the licensee which was previously granted shall automatically be suspended. Notwithstanding the foregoing, between October 1 and December 31 of each year, the licensee shall be permitted to complete continuing education requirements which he or she has failed to complete prior to the end of the fiscal year on September 30.

(c) The license and license certificate shall be reinstated only upon the provision of satisfactory evidence to the board, in a form acceptable to the board, that the continuing education requirements for the one fiscal year next preceding the proposed reinstatement have been satisfied and upon the payment of all fees required to be paid under this chapter.

(d) Every licensed optometrist who desires to continue the practice of optometry in the state shall annually, on or before the first day of October, pay to the secretary of the board a renewal fee of one hundred sixty dollars (\$160), for which the licensee shall receive a renewal of the registration. Every licensed optometrist approved by the board to use pharmaceutical agents shall pay an additional fee of one hundred dollars (\$100). The licensee shall sign and verify the accuracy of the registration and certify his or her compliance with the continuing education requirements of the board for renewal on a form provided by the board. Upon submission of the completed form prescribed by the board, together with the aforementioned fee, the licensee shall receive the current annual registration certificate authorizing him or her to continue the practice of optometry in this state for a period of one year.

(e) Any license and license certificate previously granted shall automatically be suspended if the holder fails to secure the annual registration certificate by January 1 each year. Any optometrist whose license is automatically suspended by reason of failure, neglect, or refusal to secure the annual registration certificate shall be reinstated by the board upon payment of a penalty fee of two hundred dollars (\$200) plus all accrued annual registration fees accompanied with the prescribed form for annual registration of the license.

(f) Upon failure of any licensee to file application for the annual registration certificate and pay the annual registration fee on or before the first day of November each year, the board shall notify the licensee by certified or registered mail addressed to his or her last address of record that the application and fee have not been received and that, unless the application and fee are received on or before the first day of January of the following year, the license and license certificate shall be automatically suspended.

(g) The board may waive annual registration and the payment of fees while any licensee is prevented from practicing optometry by reason of physical disability, temporary active duty with any of the Armed Forces of the United States, or while any licensee is completely retired from the practice of optometry. The waiver of fees shall be effective so long as the disability, temporary active duty, or complete retirement continues.

(Acts 1975, No. 1148, p. 2257, § 8; Acts 1989, No. 89-233, p. 288, §§ 3, 4; Acts 1995, No. 95-218, p. 370, § 1; Acts 1997, No. 97-158, p. 211, § 3.)

§ 34-22-23. Grounds for revocation or suspension.

Any of the following shall constitute grounds for revocation of license or suspension of

license for a definite period of time, for a private or public reprimand, for probation, for the levying and collection of an administrative fine not to exceed one thousand dollars (\$1,000) per violation, for the institution of any legal proceedings necessary to enforce the provisions of this chapter:

(1) Fraud, deceit, dishonesty, or misrepresentation, whether knowingly or unknowingly, in the practice of optometry or in obtaining any license, license certificate, annual registration certificate, or other thing of value.

(2) Incompetency.

(3) Conviction of a felony or a misdemeanor which involves moral turpitude.

(4) Gross immorality.

(5) Habitual drunkenness or addiction to the use of morphine, cocaine or other drugs having similar effect.

(6) Insanity, as adjudged by a court of competent jurisdiction.

(7) Directly or indirectly employing, hiring, procuring, or inducing a person, not licensed to practice optometry in this state, to so practice.

(8) Directly or indirectly aiding or abetting in the practice of optometry any person not duly licensed to practice under this chapter.

(9) Directly or indirectly employing solicitors, canvassers, or agents for the purpose of obtaining patronage.

(10) Willfully or repeatedly violating any of the provisions of this chapter.

(11) Practicing or attempting to practice optometry under a name other than one's own name as set forth on the license certificate.

(12) Lending, leasing, renting, or in any other manner placing his or her license or license certificate at the disposal or in the service of any person not licensed to practice optometry in this state.

(13) Soliciting patients by fraudulent or misleading advertising of any kind, nature, or description.

(14) Failing to comply with the continuing education requirements established by the board pursuant to the provisions of this chapter.

(15) Practicing optometry in any temporary office, apart from a regularly established office; provided, that a licensed optometrist may establish a branch office if the branch office is duly equipped with the instruments necessary, according to rules and regulations promulgated by the board, to make complete optometric examination; provided further, that the branch office is in personal and direct charge of the optometrist establishing it or a licensed associate.

(16) Practicing optometry as the employee of any person, group, association, or corporation on the basis of any fee splitting or on any basis which has the effect of any such agreement; provided, that the provisions of this subdivision shall not be so construed as to prohibit a licensed optometrist from participating in health maintenance organizations composed of licensed professional practitioners in the health care field, other similar ethical professional health care groups, or in professional associations or professional corporations organized under Alabama law or penalize him or her for participation; provided further, that the provisions of this subdivision shall not be so construed as to prohibit a licensed optometrist from practicing as the partner, employee, or associate of another licensed optometrist or a physician.

(17) Violating any other standards of unprofessional conduct as may be adopted as rules

by the board.

(Acts 1975, No. 1148, p. 2257, § 9; Acts 1975, 4th Ex. Sess., No. 124, p. 2818, § 1; Acts 1989, No. 89-233, p. 288, § 3; Acts 1995, No. 95-218, p. 370, § 1.)

34-22-24. Disposition of fees.

All fees received by the board for examinations, annual renewal registrations, or from any other source shall be utilized in regulating the practice of optometry and paying the expenses of the board, including necessary clerk hire, legal expenses, and per diem and expenses of the members of the board as herein provided. Should the funds in the hands of the board at the end of any fiscal year (October 1) be more than two hundred thousand dollars (\$200,000), the excess of this amount shall be paid into the State Treasury to the credit of a special trust fund which shall be spent solely for the purpose of constructing, operating, and maintaining a college of optometry at the University of Alabama, in Birmingham, equipping of facilities, student scholarships and loans, faculty salaries and endowments, continuing education, and research grants.

(Acts 1975, No. 1148, p. 2257, § 14; Acts 1989, No. 89-233, p. 288, § 3; Act 2001-270, p. 324, § 3.)

ARTICLE 3.

BOARD OF OPTOMETRY.

§ 34-22-40. Creation; composition; qualifications of members; terms of office; appointment; election of candidates; vacancies; removal of members; annual meeting.

(a) In order to accomplish the purposes and to provide for the enforcement of this chapter, there is created the Alabama Board of Optometry. The board may implement and enforce this chapter. On October 10, 1975, the State Board of Optometry as then constituted shall be abolished, but the members thereof shall serve as members of the Alabama Board of Optometry created by this section and shall continue to serve until their present terms of appointment expire, as set out below. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Until October 1, 1992, the Alabama Board of Optometry shall consist of five persons, no two of whom shall reside in the same U.S. Congressional District. On October 1, 1993, two additional members shall be appointed to the board. The board shall then be composed of seven members, one from each United States Congressional District as follows:

The members shall be persons licensed to practice optometry in this state, each of whom shall be a resident of this state, who shall have been actively engaged in the practice of optometry for at least five years next preceding the date of their appointment. The term of one member of the board shall expire October 1, 1975, and every fifth year thereafter; the term of one member shall expire October 1, 1976, and every fifth year thereafter; the term of one member shall expire October 1, 1977, and every fifth year thereafter; the term of one member

shall expire October 1, 1978, and every fifth year thereafter; the term of one member shall expire October 1, 1979, and every fifth year thereafter; the term of two additional members shall begin on October 1, 1993, and expire October 1, 1998, and every fifth year thereafter. Each member of the board shall be appointed by the Governor from a list of five names of qualified persons certified to him or her by the board.

(b) When the term of any member of the board expires, that person shall continue to serve until his or her successor is appointed and qualified.

(c) For the purpose of preparing the list of five names, the board shall conduct an annual meeting at least 30 days prior to October 1 of each year, at which all optometrists licensed to practice and holding a current annual registration certificate pursuant to this chapter may attend, nominate, and vote. The board may regulate and prescribe the place and hour of the meeting, the method of nomination, and the manner of voting. Each optometrist in attendance may vote for those persons duly nominated, and no cumulative or proxy voting shall be permitted. Each optometrist voting shall vote for five nominees in order for his or her ballot to be valid, and any ballot indicating votes for more or less than five nominees shall be null and void. The five persons receiving the greatest number of votes of those in attendance at the meeting shall be the five persons whose names shall be certified to the Governor for appointment to the board, without substitution. In order for a person to withdraw from the list, the person must do so in writing and present it to the secretary of the board prior to the submission of the list to the Governor, after eliminating the person withdrawing from the list, and the list shall be composed solely of those names remaining. At least 30 days prior to the meeting the board shall mail notices to each optometrist licensed to practice and holding a current annual registration certificate pursuant to this chapter at the address shown on his or her current registration notifying each optometrist of the exact date, place, and hour of the meeting, the purpose of the meeting, and of the right to attend and vote. In the event of a vacancy prior to the next annual meeting, the Governor shall fill the vacancy from the remaining names on the list. The Governor may remove any member for neglect of duty, incompetency, improper or unprofessional conduct, or having his or her license revoked or suspended.

(d) Effective October 1, 1984, no person may serve more than two consecutive terms on the board. Time served on the board prior to October 1, 1984, shall not count toward this limitation.

(Acts 1975, No. 1148, p. 2257, § 3; Acts 1984, No. 84-310, p. 691, § 1; Acts 1989, No. 89-233, p. 288, § 3; Acts 1993, No. 93-153, p. 222, § 3; Acts 1997, No. 97-158, p. 211, § 3.)

§ 34-22-42. Powers and duties generally.

The board shall exercise and perform, subject to this chapter, each of the following powers and duties:

- (1) Conduct examinations at least once each year to ascertain the qualifications and fitness of applicants for licenses to practice optometry.
- (2) Prescribe rules and regulations for conducting and administering an examination of applicants for licensing as optometrists and to effectuate this chapter.
- (3) Institute, upon a complaint or petition, hearings of charges against licensed optometrists or other persons as provided in this chapter.
- (4) Institute legal proceedings for violations of this chapter.
- (5) Grant and deny licenses in conformity with this chapter, including applications for approval to use pharmaceutical agents.

(6) Formulate rules and regulations by which the board shall determine which optometry schools and colleges in or out of the State of Alabama have been duly accredited by a recognized and properly authorized accrediting agency and which accredited schools or colleges shall be approved by the board.

(7) Establish standards of continuing education which shall be deemed a requisite to the renewal of licenses of applicants who are otherwise qualified to practice optometry in the State of Alabama.

(8) Keep a register of optometrists containing the names and addresses of all persons to whom license certificates, temporary licenses, approvals for use of pharmaceutical agents, and limited licenses have been issued in the State of Alabama, the date of the issuance, the place or places of business in which each optometrist is engaged, and all renewals, revocations, and suspensions of licenses and certification.

(9) Administer oaths and affirmations of witnesses, issue subpoenas to compel the attendance of witnesses and the production of all necessary papers, books, records, documentary evidence, and materials in any hearing, investigation, or other proceeding before the board.

(10) Employ or appoint an executive director, clerical personnel, and legal advisors or counsel to assist in implementing this chapter when there is a need for those services and when funds are available for those purposes. The executive director may be a licensed optometrist in this state, but may not, while serving as the executive director, also serve as a member of the Board of Optometry. The executive director shall not be subject to the state Merit System.

(11) Prescribe rules and regulations establishing a program of internship as a requisite to application for license, if the board deems such a program advisable.

(12) Prescribe rules and regulations establishing circumstances and conditions upon which temporary licenses may be issued by the board and the terms and conditions of the temporary licenses.

(13) Prescribe rules and regulations subject to the limitations of this chapter for the utilization of methods or means of treatment recognized as being within the scope of the practice of optometry.

(14) Prescribe rules and regulations subject to the limitations of this chapter necessary for the performance of eye care procedures reasonably necessary to the treatment of conditions or diseases of the human eye and its adjacent structures.

§ 34-22-60. Board created; composition; terms of office.

There is hereby created and established the Board of Optometric Scholarship Awards which shall be authorized and required to establish scholarships to provide for and further optometric training in pursuance of an optometric degree, of qualified applicants for admission to the University of Alabama School of Optometry. The board shall be composed of one optometrist from six components of the component societies of Alabama Optometric Association whose terms of office shall be staggered, (A) two optometrists being elected for a term of two years; (B) two optometrists being elected for a term of three years; (C) two optometrists being elected for a term of four years, with each successor to the aforesaid optometrists to be elected for a term of four years; (D) the secretary of the Alabama Optometric Association or his appointee who shall serve as chairman of the board; (E) the dean of the University of Alabama School of Optometry or his designee; (F) the chairman of the University of Alabama School of Optometry

Admissions Committee; and (G) two community representatives to be appointed by the Governor of the State of Alabama.

(Acts 1982, No. 82-460, p. 735, § 1.)

§ 34-22-62. Types of scholarships.

The board shall establish two types of scholarships as follows:

(1) A number of loans equal to 20 percent of the number of students enrolled in the University of Alabama School of Optometry based on the economic need and scholastic ability of the applicant, in an amount not to exceed \$3,000.00 per annum or \$12,000.00 over a four year period, shall be available to any bona fide resident of Alabama of good character who has been accepted for matriculation by the University of Alabama School of Optometry. This section shall also apply to graduate students in physiological optics, at the discretion of the board.

(2) A number of nonrefundable merit scholarship awards equal in number to five percent of the number of students enrolled in the University of Alabama School of Optometry in an amount not to exceed \$3,000.00 per annum each, or \$12,000.00 over a four year period, shall be available to outstanding students, one-fourth of which shall be awarded each year to members of the entering class at the University of Alabama School of Optometry, who, in the judgment of the board, have the highest scholastic achievement in undergraduate studies, sufficient aptitude, excellence of character, and other pertinent qualifications.

(Acts 1982, No. 82-460, p. 735, § 4.)

§ 34-22-63. Repayment of loans; service contracts.

(a) Scholarships extended under Section 34-22-62(1) shall be repaid following graduation, either in cash as is provided under subsection (b) of this section or under terms of a contract to serve in a needy area in Alabama for a term to be specified by the board as provided in subsection (c) of this section. Any moneys received from recipients in repayment of a scholarship loan under subsections (b) and (c) of this section shall upon receipt thereof be remitted by the Board of Optometric Scholarship Awards to the Treasurer of the State of Alabama for credit to the Special Education Trust Fund.

(b) Scholarship loans to be repaid under this subsection shall be repaid to the Board of Optometric Scholarship Awards in full at an interest rate of six percent per annum from the date of graduation from optometry school, and payments are to be made annually, the first of which is due one year after the recipient enters the practice of optometry or one year after completion of residency training, whichever occurs first. Repayment in full must be completed within eight years from initiation of repayment. Any recipient who fails for any reason to continue his optometric education shall repay all loan amounts in accordance with terms and conditions established by the Board of Optometric Scholarship Awards, provided that interest rate on such unpaid loan amounts shall be fixed at six percent per annum from the date of his/her departure from optometry school.

(c) Scholarship loans to be repaid under this subsection shall be repaid by service in one of the following ways, subject to approval by the Board of Optometric Scholarship Awards, and considering the U.S. Department of Health, Education and Welfare designated optometric manpower shortage areas as one means of determination:

(1) Practice for a four-year period in a community of less than 5,000 population which has been deemed to be critically in need of additional optometric practitioners.

(2) Practice for a five-year period in a community of more than 5,000 population and less than 15,000 population which has been deemed to be critically in need of additional optometric practitioners.

(3) Practice for a five-year period in a community of more than 15,000 but less than 100,000 population and repayment of one-half the loan plus six percent simple interest annually in five annual payments, beginning at the end of the first year of practice.

(4) Practice for four years in a position in Alabama in public health or as an optometrist in any state institution approved by the Board of Optometric Scholarship Awards.

(5) For loans of less than four years of study, service repayment may be prorated on the basis of one-fourth of the above requirements for each \$3,000.00 loan.

(Acts 1982, No. 82-460, p. 735, § 5.)

§ 34-22-64. Contractual agreement of recipients; penalties for breach; institution of legal proceedings.

Each recipient of a scholarship loan under the provisions of this article shall enter into a contract with the Board of Optometric Scholarship Awards whereby he/she agrees to repay the scholarship loan in a manner prescribed by the board not inconsistent with any provisions of this article. Breach of contract by the recipient shall make him/her immediately liable for the unpaid balance of the loan and shall constitute a ground for the revocation of his/her certificate or license to practice optometry in the State of Alabama. In the event of death or total and permanent disability of the recipient to engage in the practice of optometry, repayment of the loan may be excused by the board. The Attorney General of Alabama, upon request of the Board of Optometric Scholarship Awards, shall institute proceedings in the name of the state for the purpose of recovering any amount due the state under the provisions of this article. The proceedings to have such optometrists' certificate or license revoked shall be commenced upon the written complaint of the Board of Optometric Scholarship Awards to the State Board of Optometric Examiners. The proceedings shall be in accordance with the provisions of the Alabama law pertaining to the revocation of licenses to practice optometry.

(Acts 1982, No. 82-460, p. 735, § 6.)

§ 34-22-80. Legislative findings.

The Legislature hereby finds and declares that, because of technological advances and changing practice patterns, the practice of optometry is occurring with increasing frequency across state lines and certain technological advances in the practice of optometry are in the public interest. The Legislature further finds and declares that the practice of optometry is a privilege and that the licensure by this state of practitioners located outside this state engaging in such optometric practice within this state and the ability to discipline such practitioners is necessary for the protection of the citizens of this state and for the public interest, health, welfare, and safety.

(Act 98-495, p. 956, § 1.)

§ 34-22-81. Definitions.

(a) The practice of optometry across state lines means the practice of optometry as defined in Section 34-22-1(4), as it applies to:

(1) The rendering of a written or otherwise documented professional opinion concerning the diagnosis or treatment of a patient located within this state by an optometrist located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such optometrist or his or her agent.

(2) The rendering of treatment to a patient located within this state by an optometrist located outside this state as a result of transmission of individual patient data by electronic or other means from this state to such optometrist or his or her agent.

(3) This definition is not intended to include an informal consultation between a licensed optometrist located in this state and an optometrist located outside this state provided that the consultation is conducted without compensation or the expectation of compensation to either optometrist and does not result in the formal rendering of a written or otherwise documented professional opinion concerning the diagnosis or treatment of a patient by the optometrist located outside the state.

(b) Board means the Alabama Board of Optometry created pursuant to Section 34-22-40.

(Act 98-495, p. 956, § 2.)

§ 34-22-82. Practice of optometry across state lines; certificate of qualification; requirements; license generally.

(a) No person shall engage in the practice of optometry across state lines in this state, hold himself or herself out as qualified to practice optometry, or use any title, word, or abbreviation to indicate or induce others to believe that he or she is licensed in this state to practice optometry across state lines unless he or she has been issued a special purpose license to practice optometry across state lines in accordance with the provisions of this article; provided however, that no person who holds a full, unrestricted and current license issued pursuant to Sections 34-22-1 to 34-22-43, inclusive, shall be required to obtain a special purpose license to practice optometry across state lines.

(b) An individual shall submit an application for a certificate of qualification for a special purpose license to practice optometry across state lines on a form provided by the board and shall remit an application fee in an amount established by the board. The Alabama Board of Optometry shall issue a special purpose license to practice optometry across state lines upon presentation by an applicant of a certificate of qualification issued by the Alabama Board of Optometry in accordance with this section. The authority of the board to issue, revoke, or suspend the special purpose license to practice optometry across state lines shall be the same as the general authority granted to the board under Sections 34-22-5 to 34-22-43, inclusive. The Alabama Board of Optometry shall issue a certificate of qualification certifying an applicant for a special purpose license to practice optometry across state lines who has met the following requirements:

(1) The applicant holds a full and unrestricted license to practice optometry in any and all states of the United States or in territories in which the individual is licensed.

- (2) The applicant has not had any disciplinary action or other action taken against the applicant by any state or licensing jurisdiction.
- (3) In the event of previous disciplinary or other action against the applicant, the board may issue a certificate of qualification if it finds that the previous disciplinary or other action does not indicate that the optometrist is a potential threat to the public.
- (c) A special purpose license issued by the board to practice optometry across state lines limits the licensee solely to the practice of optometry across state lines as defined herein. The special purpose license is valid for a period of three years, shall expire on a renewal date established by the board in the third calendar year after its issuance, and may be renewed upon receipt of a renewal fee as established by the board. Failure to renew a license according to the renewal schedule established by the board shall result in the automatic revocation of the special purpose license to practice optometry across state lines. An applicant may reapply following automatic revocation for failure to renew.

(Act 98-495, p. 956, § 3.)

§ 34-22-83. Jurisdiction of board; duties of licensees; suspension of license.

- (a) The issuance by the board of a special purpose license to practice optometry across state lines subjects the licensee to the jurisdiction of the board in all matters set forth in Sections 34-22-1 to 34-22-43, inclusive, and implementing rules and regulations of the board, including all matters related to discipline. It shall be the affirmative duty of every licensee to report to the Alabama Board of Optometry in writing within 15 days of the initiation of any disciplinary action against the licensee to practice optometry by any state or territory in which the licensee is licensed. In addition, the licensee agrees, by acceptance of the license, to produce patient records or materials as requested by the board or to appear before the board or any of its committees following receipt of a written notice issued by the board. Such notice may be issued by the board pursuant to Sections 34-22-1 to 34-22-43, inclusive.
- (b) The Alabama Board of Optometry is hereby authorized to temporarily suspend a special purpose license to practice optometry across state lines without a hearing on either of the following grounds:
- (1) The failure of the licensee to appear or produce records or materials as requested by the board.
- (2) The initiation of a disciplinary action against the licensee by any state or territorial licensing jurisdiction in which the licensee holds a license to practice optometry.
- (c) Notwithstanding any other provision of law, including the Alabama Administrative Procedure Act, the temporary suspension provided herein shall remain in effect until either the licensee has complied with the request of the board or the disciplinary action pending against the licensee has been terminated in favor of the licensee and the temporary suspension is terminated by a written order of the Alabama Board of Optometry. A special purpose license to practice optometry across state lines is subject to each of the grounds for disciplinary action provided in Section 34-22-6, in accordance with the procedures of Section 34-22-8, and the Alabama Administrative Procedure Act.

(Act 98-495, p. 956, § 4.)

§ 34-22-85. Exceptions.

(a) An optometrist who engages in the practice of optometry across state lines in an emergency, as defined by the board, is not subject to this article.

(b) An optometrist who engages in the practice of optometry across state lines on an irregular or infrequent basis is not subject to this article. The "irregular or infrequent" practice of optometry across state lines is considered to occur if the practice occurs less than 10 times in a calendar year or involves fewer than 10 patients in a calendar year, or comprises less than one percent of the optometrist's diagnostic or therapeutic practice.

(Act 98-495, p. 956, § 6.)

§ 34-22-86. Penalties; disciplinary action.

(a) Any person who violates this article is subject to criminal prosecution for the unlicensed practice of optometry under Section 34-22-6, or other action authorized in this state to prohibit or penalize continued practice without a license under Section 34-22-8.

(b) Nothing in this article shall be interpreted to limit or restrict the board's authority to discipline any optometrist licensed to practice in this state who violates Sections 34-22-6 to 34-22-8, inclusive, while engaging in the practice of optometry within this or any other state.

(Act 98-495, p. 956, § 7.)

§ 34-22-87. Comity.

Notwithstanding any provision of this article, the board shall only issue a special purpose license to practice optometry across state lines to an applicant whose principal practice location and license to practice is located in a state or territory of the United States whose laws permit or allow for the issuance of a special purpose license to practice optometry across state lines or similar license to an optometrist whose principal practice location and license is located in another state. It is the stated intent of this article that optometrists who hold a full and current license in the State of Alabama be afforded the opportunity to obtain, on a reciprocal basis, a license to practice optometry across state lines in any state or territory of the United States as a precondition to the issuance of a special purpose license as authorized by this article to an optometrist licensed in such state or territory. The Alabama Board of Optometry shall determine which states or territories have reciprocal licensure requirements meeting the qualifications of this section.

(Act 98-495, p. 956, § 8.)

§ 34-22-88. Rules and regulations.

The Alabama Board of Optometry is vested with authority to adopt and promulgate rules and regulations to effect the purposes of this article.

Board Members



Dr. Fred Wallace
Executive Director

ALABAMA BOARD OF OPTOMETRY

1431 Second Avenue, North
Bessemer, Alabama 35020

Telephone (205) 481-9993
Fax (205) 481-9959

Email: fwallace@al-optometry.org
Website: www.al-optometry.org

Present members of the ALABAMA BOARD OF OPTOMETRY with expiration date of term. All members are appointed by the Governor of the State of Alabama for a period of five (5) years.

Dr. Murray Glusman
513 Shenandoah Road W
Mobile, AL 36608
September 30, 2008

Dr. Martin L. Habel, Secretary-Treasurer
P. O. Box 609
Rainsville, AL 35986
September 30, 2007

Dr. Lynn S. Hammonds
2725 Smyer Road
Vestavia Hills, AL 35216
September 30, 2008

Dr. Leroy Maxwell, Vice President
1522 Broad Street
Selma, AL 36701
September 30, 2006

Dr. Gary Murrell
160 Laurel Cr, S.E.
Jacksonville, AL 36265
September 30, 2008

Dr. James H. Tillman
P.O. Box 1517
Andalusia, AL 36420
September 30, 2004

Dr. William H. Sullins, President
210 Bob Wallace Avenue, SW
Huntsville, AL 35801
September 30, 2005

Executive Director (Contact person for all board business):

Dr. Fred Wallace
1431 Second Avenue, North
Bessemer, AL 35020
205-481-9993
205-481-9959 fax
fwallace@al-optometry.org



ALABAMA BOARD OF OPTOMETRY

1431 Second Avenue, North
Bessemer, Alabama 35020

Telephone (205) 481-9993

Fax (205) 481-9959

Email: fwallace@al-optometry.org

Website: www.al-optometry.org

Dr. Fred Wallace
Executive Director

May 13, 2004

John E. Norris
Director, Operational Division
State of Alabama
Examiners of Public Accounts
PO Box 302251
Montgomery, AL 36130-2251

Dear Mr. Norris,

I have received your report of significant items that resulted from a recent questionnaire sent to a sample of Alabama optometry licensees.

Please know that the Alabama Board of Optometry is well aware of this activity, and is actively pursuing all reports of illegal contact lens sales.

The board has received complaints from citizens who have suffered injuries as a result of illegal contact lens sales. These have resulted in fines paid and cease and desist orders signed by the individuals illegally dispensing the contact lenses.

Often the board has received reports (not official complaints) from citizens and licensees about the possibility of illegal contact lens sales. All of these reports are also pursued. The board sends a certified letter (copy enclosed) informing the businesses or individual of Alabama law. The certified letter is followed by an attempt to purchase lenses by the board's investigator. If lenses are still being sold illegally, the board files a complaint with the local authorities. These actions have resulted in signed cease and desist orders or warrants for arrest. The board has found that our actions are very successful in stopping these businesses or individuals from illegally selling lenses.

The problem is widespread, and is a common discussion at meetings of the Association of Regulatory Boards in Optometry. Our board feels that our actions in Alabama have been very effective, and we have shared our strategy with other agencies. Our efforts are ongoing.

Additionally, the board has contacted the lens manufacturers and asked for their assistance in curtailing the improper distribution of their lenses, and asked for their assistance in educating the public on the hazards of improper contact lens care and wear.

The illegal sale of contact lens sales across the Internet has been a problem throughout the country. Recent federal legislation attempts to require contact lens sellers to obtain accurate verification of patient prescriptions prior to dispensing contact lenses. The board welcomes this attempt to insure that lenses are dispensed properly.

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred Wallace".

Fred Wallace, O.D., F.A.A.O.
Executive Director

Enclosures



Dr. Fred Wallace
Executive Director

ALABAMA BOARD OF OPTOMETRY

1431 Second Avenue, North
Bessemer, Alabama 35020

Telephone (205) 481-9993

Fax (205) 481-9959

Email: fwallace@al-optometry.org

Website: www.al-optometry.org

IMPORTANT INFORMATION from the Alabama Board of Optometry

It is **illegal** to sell or dispense **ANY** contact lens to a citizen of Alabama unless you are doing so upon written, unexpired prescription of a licensed optometrist or ophthalmologist.

You can be fined up to \$1000 per contact lens sold.

Alabama Law states that you cannot sell or dispense ANY contact lens unless you receive a written, unexpired prescription from a licensed optometrist or ophthalmologist. This includes **all** contact lenses; all "trial" or "sample" contact lenses, all contact lenses with "no prescription power", and **all tinted (including novelty) contact lenses**. (see Code of Alabama 34-22-4(b)).

The Alabama Board of Optometry has received several complaints from citizens about establishments selling contact lenses without proper prescription authorization.

The Alabama Board of Optometry is actively investigating these complaints. If you sell or dispense **any** contact lens without proper unexpired prescription authorization from an optometrist or ophthalmologist, you may be fined up to \$1000 per contact lens sold.



Dr. Fred Wallace
Executive Director

ALABAMA BOARD OF OPTOMETRY

1431 Second Avenue, North
Bessemer, Alabama 35020

Telephone (205) 481-9993

Fax (205) 481-9959

Email: fwallace@al-optometry.org

Website: www.al-optometry.org

May 13, 2004

John E. Norris
Director, Operational Division
State of Alabama
Examiners of Public Accounts
PO Box 302251
Montgomery, AL 36130-2251

Dear Mr. Norris,

Attached are some non-controversial "housekeeping" changes to the law that our board is preparing for submission to the Sunset Committee.

Any assistance that your office may provide is greatly appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred Wallace", is written over a large, stylized, light-colored circular mark.

Fred Wallace, O.D., F.A.A.O.
Executive Director

Enclosures

Present law:

34-22-20. Examinations; qualifications of applicants; execution, issuance and possession of licenses; temporary licenses.

- (a) Every person desiring to practice optometry in this state shall be 19 years of age, or over, a citizen of the United States, and of good moral character. The person shall have a preliminary education of at least four years of high school or the equivalent and be a graduate thereof, have a minimum of three years of preoptometry, or the equivalent, at an accredited college or university, have completed a course of study in a accredited school or college of optometry which is approved by the board and that requires at least four years of professional study, and have passed all examinations prescribed by the board including the standard examination after completion of the educational requirements. The standard examination shall consist of tests in practical, theoretical and physiological optics, in theoretical and practical optometry, orthoptics, ocular anatomy, physiology, pharmacology, pathology, diagnosis and treatment of disease of the human eye and its adjacent structures, general anatomy and hygiene and such other knowledge as the board deems essential to the practice of optometry. The standard examination shall be consistent with the established teaching and recognized textbooks of accredited schools or colleges of optometry.

Proposed change:

- (a) Every person desiring to practice optometry in this state shall be 19 years of age, or over, a legal resident of the United States, and of good moral character. The person shall have a preliminary education of at least four years of high school or the equivalent and be a graduate thereof, have a minimum of three years of preoptometry, or the equivalent, at an accredited college or university, have completed a course of study in a accredited school or college of optometry which is approved by the board and that requires at least four years of professional study, and have passed all examinations prescribed by the board, which may include the standard examination after completion of the educational requirements. The standard examination shall consist of tests in practical, theoretical and physiological optics, in theoretical and practical optometry, orthoptics, ocular anatomy, physiology, pharmacology, pathology, diagnosis and treatment of disease of the human eye and its adjacent structures, general anatomy and hygiene and such other knowledge as the board deems essential to the practice of optometry. The standard examination shall be consistent with the established teaching and recognized textbooks of accredited schools or colleges of optometry.

Present law:

34-22-23. Grounds for revocation or suspension.

Any of the following shall constitute grounds for revocation of license or suspension of license for a definite period of time, for a private or public reprimand, for probation, for the levying and collection of an administrative fine not to exceed one thousand dollars (\$1000) per violation, for the institution of any legal proceedings necessary to enforce the provisions of this chapter:

(1) Fraud, deceit, dishonesty, or misrepresentation, whether knowingly or unknowingly, in the practice of optometry or in obtaining any license, license certificate, annual registration certificate, or other thing of value.

(2) Incompetency.

(3) Conviction of a felony or a misdemeanor which involves moral turpitude.

(4) Gross immorality.

....

(16) Practicing optometry as the employee of any person, group, association, or corporation on the basis of any fee splitting or on any basis which has the effect of any such agreement; provided, that the provisions of this subdivision shall not be so construed as to prohibit a licensed optometrist from participating in health maintenance organizations composed of licensed professional practitioners in the health care field, other similar ethical professional health care groups, or in professional associations or professional corporations organized under Alabama law or penalize him or her for participation; provided further, that the provisions of this subdivision shall not be construed as to prohibit a licensed optometrist from practicing as the partner, employee, or associate of another licensed optometrist or a physician.

(17) Violating any other standards of unprofessional conduct as may be adopted as rules by the board.

Proposed change:

(17) Violating any other standards of professional conduct as may be adopted as rules by the board.

Present law:

34-22-41. Officers; meetings; quorum; compensation; expenses; deposit and expenditure of funds; bonds; surety; annual report.

(a) The board shall choose one of its members as president, one as vice-president, and one as secretary-treasurer, who each may administer oaths and take affidavits, certifying thereto under their hand and the common seal of the board.

(b) The board shall meet at least once in each year in the city of Montgomery or in a place designated by the president and, in addition thereto, whenever and wherever the president thereof calls a meeting. A majority of the board shall at all times constitute a quorum. The secretary of the board shall keep a full record of the proceedings of the board, which shall at all reasonable times be open to public inspection.

(c) Each member of the board shall be reimbursed at the same per diem and travel allowance amounts paid by law to state employees for each day of attendance upon the business of the board and, in addition thereto, the sum of one hundred twenty-five dollars (\$125) per diem for each day actually spent by each member upon the business of the board. All expenses and per diem shall be paid out of the receipts of the board under this chapter. The secretary shall receive compensation as fixed by the board and shall be the custodian of all records and the official seal of the board.

Proposed change:

34-22-41. Officers; meetings; quorum; compensation; expenses; deposit and expenditure of funds; bonds; surety; annual report.

(a) The board shall choose one of its members as president, one as vice-president, and one as secretary-treasurer, who each may administer oaths and take affidavits, certifying thereto under their hand and the common seal of the board.

(b) The board shall meet at least once in each year in the city of Montgomery or in a place designated by the president and, in addition thereto, whenever and wherever the president thereof calls a meeting. A majority of the board shall at all times constitute a quorum. The secretary of the board shall keep a full record of the proceedings of the board, which shall at all reasonable times be open to public inspection.

(c) Each member of the board shall be reimbursed at the same per diem and travel allowance amounts paid by law to state employees for each day of attendance upon the business of the board and, in addition thereto, the sum of two hundred fifty dollars (\$250) per diem for each day actually spent by each member upon the business of the board. All expenses and per diem shall be paid out of the receipts of the board under this chapter. The secretary shall receive compensation as fixed by the board and shall be the custodian of all records and the official seal of the board.